

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-005360

12/05/2007

HONORABLE PETER SWANN

CLERK OF THE COURT  
D. Monroe  
Deputy

LUKE AUBERT, et al.

JACK LEVINE

v.

VICTOR ZACHARY MARTIN

GARRICK MCFADDEN

R JOE BYER

TRIAL MINUTE ENTRY  
DAY 2

8:53 a.m. Trial to Jury continues from December 4, 2007. Plaintiffs, Luke Aubert and Karen Aubert, are present and represented by counsel, Jack Levine. Defendant, Victor Zachary Martin, is present and represented by counsel, Garrick McFadden and Lloyd J. Andrews. The jury is all present.

Court Reporter, Judie Bryant, is present.

Plaintiffs' case continues:

Patrick Bradley is sworn and testifies.

Plaintiffs' exhibit 14 is received in evidence.

Plaintiffs' exhibits 3, 11, and 17 are received in evidence.

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Pursuant to stipulation of counsel, Plaintiffs' exhibits 7 and 9 are received in evidence.

Defendant's exhibit 13 is received in evidence.

The witness is excused.

The videotaped deposition of Carolyn A. Huppert, D.C., dated November 15, 2007, continues. As previously agreed to by counsel, the Court Reporter will not record the playing of the deposition.

10:12 a.m. The jury is reminded of the admonition and leaves the courtroom. Court remains in session.

Discussion is held and argument is heard regarding exhibits.

Pursuant to stipulation of counsel, Plaintiffs' exhibits 4 and 10 are received in evidence.

IT IS ORDERED that a copy of Plaintiffs' exhibit 1 is hereby substituted for the original of Plaintiffs' exhibit 1.

IT IS FURTHER ORDERED releasing to counsel for Plaintiffs the original of exhibit 1.

Pursuant to stipulation of counsel, Plaintiffs' exhibit 1 is received in evidence.

Plaintiffs' exhibit 2 is received in evidence.

IT IS FURTHER ORDERED directing the clerk to remove page 2 from Plaintiffs' exhibit 6.

IT IS FURTHER ORDERED releasing to counsel for Plaintiffs page 2 of exhibit 6.

Plaintiffs' exhibit 6 is received in evidence.

ISSUED: Release form (1).

Brief discussion is held regarding scheduling.

10:22 a.m. Court stands at recess.

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10:43 a.m. Court reconvenes with parties and respective counsel present. The jury is all present.

Court Reporter, Judie Bryant, is present.

Luke Aubert is sworn and testifies.

Plaintiffs rest.

11:10 a.m. Court stands at recess.

Let the record reflect that counsel are provided with a draft of the final jury instructions.

1:32 p.m. Court reconvenes with parties and respective counsel present. The jury is not present.

Court Reporter, Judie Bryant, is present.

Instructions are settled and approved by counsel.

1:34 p.m. The jury is now present. Court continues.

Defendant's case:

Ronald M. Lampert is sworn and testifies.

Defendant's exhibit 20 is received in evidence.

Plaintiffs' exhibit 23 is marked for identification.

The witness is excused.

Rebuttal:

Karen Aubert resumes the stand and testifies further.

The Court receives written questions from the jury. Court and counsel discuss the questions, and answers are provided through further testimony of the witness.

Plaintiffs' rest.

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2:37 p.m. Court stands at recess.

3:02 p.m. Court reconvenes with parties and respective counsel present. The jury is all present.

Court Reporter, Judie Bryant, is present.

The jury is instructed by the Court as to the law applicable to this cause.

Closing arguments.

Jury instructions conclude.

3:31 p.m. The jury retires in charge of sworn bailiffs to consider their verdicts.

4:13 p.m. Court reconvenes with the parties and respective counsel present.

Court Reporter, Judie Bryant, is present.

The jury is all present in the jury box and by their foreperson return into court their verdict, which is read and recorded by the clerk, and is as follows:

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of the Plaintiffs, Luke Aubert and Karen Aubert, and against the Defendant, Victor Zachary Martin, and find the full amount of damages to be \$6,000.00.”

The verdict is unanimous and signed by the Foreperson.

The jury replies that these are their true verdicts.

The jury is thanked by the Court and excused from further consideration of this cause.

4:15 p.m. Trial concludes.

FILED: Juror Questions (2); Jury Instructions; Verdicts (2); Exhibit Worksheet; Trial/Hearing Worksheet.

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IT IS ORDERED assessing jury fees in the total amount of \$346.56 against Plaintiffs, Luke Aubert and Karen Aubert , all in accordance with formal written Judgment for Jury Fees signed by the Court on December 5, 2007 and filed (entered) by the Clerk on December 5, 2007.

There being no further need to retain the exhibits currently in the custody of the division clerk,

IT IS ORDERED that the Clerk permanently release those exhibits not offered or received in evidence to the counsel/party causing them to be marked, or to a written designee.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form (1)